

Assembly Bill No. 2825

CHAPTER 739

An act to amend the heading of Part 3 (commencing with Section 1101), of Division 1 of, and to amend Sections 1101, 1102, 1103, and 1107 of, the Food and Agricultural Code, and to repeal Section 21083.2.5 of the Public Resources Code, relating to the environment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2000. Filed
with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2825, Battin. Biomass facilities: grant program.

(1) Chapter 144 of the Statutes of 2000 enacted the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program, which permits air districts, as defined, to apply to the Trade and Commerce Agency to receive grants to provide incentives to facilities that convert qualified agricultural biomass, as defined, to fuel. Under existing law, specified terms are defined for purposes of the program.

This bill would revise the name of the program to the "Agricultural Biomass to Energy Incentive Grant Program." The bill would also revise the definition of the term "facility" to delete the requirement that the facility convert qualified agricultural biomass from the Central Valley, and to include only those facilities that do not produce electricity for sale to a public utility, as specified, and would revise the definition of the term "qualified agricultural biomass" to include only that qualified agricultural biomass that the State Air Resources Board determines has been historically open-field burned in the geographic jurisdiction of the air district from which the agricultural residues are derived for purposes of that program.

(2) This bill would repeal provisions in AB 2752, if that measure is chaptered, that require a lead agency to minimize any significant impact of a project on the free exercise of Native American religion.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The heading of Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code, as added by Chapter 144 of the Statutes of 2000, is amended to read:

PART 3. AGRICULTURAL BIOMASS-TO-ENERGY
INCENTIVE GRANT PROGRAM

SEC. 2. Section 1101 of the Food and Agricultural Code, as added by Chapter 144 of the Statutes of 2000, is amended to read:

1101. This part shall be known, and may be cited, as the Agricultural Biomass-to-Energy Incentive Grant Program.

SEC. 3. Section 1102 of the Food and Agricultural Code, as added by Chapter 144 of the Statutes of 2000, is amended to read:

1102. The Legislature finds and declares all of the following:

(a) California agriculture produces substantial quantities of residual materials from farming practices, including orchard and vineyard pruning and removals. These residual materials are disposed of primarily by open field burning, resulting in air emissions that would be substantially reduced if the residual materials instead were converted into energy at a biomass-to-energy facility.

(b) California's longstanding energy policy encourages a diversity of electrical power generation sources, including biomass-to-energy and renewables. Existing biomass-to-energy powerplants provide an important alternative use for agricultural residue materials as well as electrical power for the people of California.

(c) California seeks to improve environmental quality and sustain our natural resources, in part through various strategies and programs that reduce agricultural, rangeland, and forest burning, and programs that foster higher value uses for materials that otherwise would be managed as wastes. Air districts currently administer air quality permit and emission requirement provisions, under state law, for various types of project facilities, including those using agricultural residue products as biomass fuel to produce electrical energy.

(d) Additional incentives are necessary to reduce open field burning of agricultural residual materials that degrade air quality, to produce electrical power from a renewable source, and to foster and sustain the biomass industry, including collection, hauling, and processing infrastructure, and, therefore, the Legislature establishes the Agricultural Biomass-to-Energy Incentive Grant Program.

(e) The Legislature further finds and declares that providing the grants set forth under this program is in the public interest, serves a public purpose, and that providing incentives to facilities will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(f) It is also the intent of the Legislature to provide funding of thirty million dollars (\$30,000,000) over the three-year duration of the grant program.

SEC. 4. Section 1103 of the Food and Agricultural Code, as added by Chapter 144 of the Statutes of 2000, is amended to read:

1103. For the purposes of this part, the following definitions apply:

(a) “Agency” means the Trade and Commerce Agency.

(b) “Air district” means an air pollution control district or an air quality management district established or continued in existence pursuant to Part 3 (commencing with Section 40000) of the Health and Safety Code.

(c) “Facility” means any California site that meets both of the following criteria:

(1) As of July 1, 2000, converted, and continues to convert, qualified agricultural biomass to energy and the conversion results in lower oxides of nitrogen (NO_x) emissions than would otherwise be produced if burned in the open field during the ozone season, as determined by the air district in which the site operates.

(2) Does not produce electricity for sale to a public utility pursuant to a contract with that public utility, or, if the site does produce electricity for sale to a public utility pursuant to a contract with that public utility, the site does not qualify for the fixed energy prices under the terms of that contract at the time the application for the grant is made.

(d) “Grant” means an award of funds by the agency to an air district that shall, in turn, grant incentive payments to a facility after deducting the air district’s administrative fee as provided in Section 1104.

(e) “Incentive payment” means a payment by an air district to facilities for qualified agricultural biomass to be received and converted into energy after July 1, 2000. This payment shall be in the amount of ten dollars (\$10) for each ton of qualified agricultural biomass received for conversion to energy.

(f) “Qualified agricultural biomass” means agricultural residues that historically have been open-field burned in the jurisdiction of the air district from which the agricultural residues are derived, as determined by the air district, excluding urban and forest wood products, that include either of the following:

(1) Field and seed crop residues, including, but not limited to, straws from rice and wheat.

(2) Fruit and nut crop residues, including, but not limited to, orchard and vineyard pruning and removals.

SEC. 5. Section 1107 of the Food and Agricultural Code, as added by Chapter 144 of the Statutes of 2000, is amended to read:

1107. The multiagency review panel established pursuant to Section 1105 shall provide a report to the Legislature on the results and effectiveness of the Agricultural Biomass-to-Energy Incentive Program by January 1, 2003.

SEC. 6. Section 21083.2.5 of the Public Resources Code, as proposed to be added by Assembly Bill 2752 of the 1999–2000 Regular Session, is repealed.

SEC. 7. It is the intent of the Legislature that if this bill is chaptered after Assembly Bill 2752 of the 1999–2000 Regular Session, that the repeal of Section 21083.2.5 of the Public Resources Code by this bill prevail over the addition of that Section by Assembly Bill 2752.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make various changes to the Agricultural Biomass-to-Energy Incentive Grant Program as soon as possible, it is necessary for this act to take effect immediately.

